IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

WP(C).No. 23174 of 2007(H)

AGAINST THE ORDER IN I.A.1129/07 IN OS.297/2000 of MUNSIFF COURT, THALASSERY
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PETITIONERS:
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1. NALLAKKANDI PARAYI LEELA,
D/O. A.M.KUNHIKANNAN, 68 YEARS,
NO OCCUPATION, RESIDING AT ADHIKARI PARAMBATH,
ERANCHOLI AMSOM DESOM, THALASSERY.

2. SON A.M. BALAKRISHNAN, 48 YEARS, DRIVER
RESIDING AT ADHIKARI PARAMBATH,ERANCHOLI AMSOM DESOM, THALASSERY.

3. BROTHER PRATHAPAN, 46 YEARS, DRIVER,
RESIDING AT ADHIKARI PARAMBATH
ERANCHOLI AMSOM DESOM,
THALASSERY.

4. BROTHER AJITH, 38 YEARS, DRIVER,
RESIDING AT ADHIKARI PARAMBATH
ERANCHOLI AMSOM DESOM, THALASSERY.

5. SISTER SREELATHA, 33 YEARS,
NO OCCUPATION,RESIDING AT ADHIKARI PARAMBATH,
ERANCHOLI AMSOM DESOM, THALASSERY.

6. SISTER LEENA, 30 YEARS, NO OCCUPATION,
RESIDING AT ADHIKARI PARAMBATH, ERANCHOLI AMSOM DESOM, THALASSERY.

7. A.N.SATHEESH KUMAR, S/O. N.P. LEELA
42 YEARS, BUSINESS, RESIDING AT ADHIKARI PARAMBATH. ERANCHOLL AMSOM DESOM,THALASSERY, REPRE SENTED BY PETITIONER NO.3 POWER OF ATTORNEY HOLDER

BY ADV. SRI.HARISH R. MENON
SRI.K.T.SHYAMKUMAR

RESPONDENTS:
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1. **A.V.VASUMATHI, D/O. KRISHNAN VYDIAR,**
   NO OCCUPATION, 67 YEARS, ODUKKATHIL HOUSE,
   THIRUVANGOOR NADA, KOZHIKODE-29,
   KOZHIKODE DISTRICT.

2. **A.V.KANCHANA,D/O. VIJAYAN, 45 YEARS,**
   VIJAYA MANDIRAM, VI RAILWAY GATE,
   P.O. NADAKKAVU, KOZHIKODE.

3. **A.V.ANITHA, D/O. VASUMATHI, 47 YEARS,**
   NO OCCUPATION, KOLANGARA HOUSE,
   NADAKKAVU.

4. **PRADEEP KUMAR, D/O. VASUMATHI,**
   ODUKKATHIL VEEDU, THIRUVANGOOR NADA,
   KOZHIKODE-29.

5. **PRAMOD,S/O.VASUMATHI, 46 YEARS,**
   NO OCCUPATION RESIDING AT
   ODUKKATHIL VEEDU,THIRUVANGOOR NADA,
   KOZHIKODE-29.

6. **RAJAGOPALAN,S/O. VASUMATHI,**
   44 YEARS, RESIDING AT ODUKKATHIL VEEDU,
   THIRUVANGOOR NADA,
   KOZHIKODE -29

7. **PRASANTH,S/O. VASUMATHI, 36 YEARS,**
   RESIDING AT ODUKKATHIL VEEDU,THIRUVANGOOR NADA,
   KOZHIKODE-29.

8. **A.V.PADMAJA, D/O. KARTHIYANI,**
   GOVINDA SADAN, THALIKKAVU ROAD, KANNUR.

9. **A.V.DEEPA, D/O. PADMAJA, 31 YEARS,**
   NO OCCUPATION, THATTANKANDI VEEDU,
   P.O.. PULLOOKKARA, VIA, CHOKLI.

10. **A.V.VANDANA, D/O. PADMAJA, 27 YEARS,**
    RESIDING AT THATTNAKANDI VEEDU,
    P.O. PULLOOKKARA, VIA. CHOKLI.

11. **A.V.SUCHITHRA, D/O. PADMAJA, 24 YEARS,**
    NO OCCUAPATION.

12. **A.V.AMBUJAKSHI,D/O. JANAKI, 64 YEARS,**
    NO OCCUPATION, TAZHATHAYIL HOUSE
    P.O., PATHIRIPATTA, KAKKATT.

13. RAJINA, D/O. AMBUJAKSHI, 36 YEARS,
RESIDING AT THZHATHAYIL HOUSE,
P.O. PATHIRIPATTA, KAKKATT, NADAPURAM.

14. V. LATHIKA, D/O. VIJAYAN, 47 YEARS,
NO OCCUAPTION, SANKARVILLA,
THIRUVANGAD.

15. V.LAJINA, D/O. VIJAYAN, 47 YEARS,
NO OCCUAPATION, SANKARVILLA,
THIRUVANGAD.

16. V.LALSON, S/O. VIJAYAN, 43 YEARS,
BUSINESS, RESIDING AT SANKARVILLA,
THIRUVANGAD.

17. V.LAMIR, S/O. VIJAYAN, 43 YEARS,
RESIDING AT SANKARVILLA,
THIRUVANGAD.

18. A.V.GOUDHAM, S/O. JANAKI,ETTUANKANDI,
PATHIRIPATTA, P.O. KAKKATTIL, NADAPURAM.

19. A.V. BEENA, D/O. DEVI, 37 YEARS,
RESIDING AT DEVI NIVAS, P.O. KAKKATTIL,NADAPURAM.

20. P.A. NANDINI, D/O. KUNKU, 60 YEARS,
KALLUKOTHU PARAMBU,
P.O. MALAPARAMB.

21. VASANTHAKUMARI, W/O. M.SADANANDAN,
62 YEARS, MALLARKANDI HOUSE,
Y.M.C.A. CROSS ROAD, KOZHIKODE.

22. SMITHA, D/O. SADANANDAN, RESIDING AT
MALLARKANDI HOUSE, Y.M.C.A. CROSS ROAD,
KOZHIKODE.

23. SHEEJA D/O. SADANANDAN,
RESIDING AT MALLARKANDI HOUSE,
Y.M.C.A. CROSS ROAD, KOZHIKODE.

24. A.V.HYMAVATHI, W/O. C.R. REGHUNATH,
53 YEARS,KUTTAPPA COLONY,EAST HILL,
P.O. KARUVASSERI.

25. ROSHINI, D/O. REGHUNATH, 31 YEARS,
RESIDING AT KUTTAPPA COLONY, EAST HILL,
P.O. KARUVASSERI.

26. VIVEK, S/O. REGHUNATH, 29 YEARS,
RESIDING AT KUTTAPPA COLONY, EAST HILL,
P.O. KARUVASSERI.

27. M.V.RAJARATNAM, D/O. MEENAKSHI, 50 YEARS
3/349, VATTOTH HOUSE, EAST NADAKKAVU,KOZHIKODE.

28. A.V.RATHI, D/O. KUNKU, 63 YEARS,
NO OCCUPATION, 3/350 MANIPURI LANE,
NADAKKAVU, KOZHIKODE 673 011.

29. NARENDRAN,S/O.BHANUPRAKASH, 39 YEARS,

30. GADADHAR, S/O. BHANUPRAKASH, 29 YEARS,
RESIDING AT 3/350 MANIPURI LANE,
NADAKKAVU, KOZHIKODE 673 011.

31. GEETHA,D/O. BHANUPRAKASH, 37 YEARS,
3/350 MANIPURI LANE,
NADAKKAVU, KOZHIKODE 673 011.

32. SEETHALAKSHMI, W/O. REGHUNATHAN,58 YEARS
C/O. JAGADEESH, HERO HONDA, NEAR M.E.S. COLLEGE,
KANNUR ROAD, KOZHIKODE.

33. K.JAGADEESH, S/O. REGHUNATHAN, 39 YEARS
HERO HONDA, NEAR M.E.S. COLLEGE,
KANNUR ROAD, KOZHIKODE.

34. K.JESSY, D/O. REGHUNATHAN, 30 YEARS
C/O. JAGADEESH, HERO HONDA,
NEAR M.E.S. COLLEGE, KANNUR ROAD,
KOZHIKODE.

35. ANUJA,D/O. REGHUNATHAN, 28 YEARS,
C/O. JAGADEESH, HERO HONDA,
NEAR M.E.S. COLLEGE, KANNUR ROAD,
KOZHIKODE.

36. BALRAJAN, S/O. KUNKU, 62 YEARS
KUNNATH PALLI HOUSE, THIRUTHIYAD, P.O. PUTHIYARA,
KOZHIKODE.

37. RAM MOHAN, S/O. MEENAKSHI, 65 YEARS,
3/349,VATTOTH HOUSE, EAST NADAKKAVU.

38. VALSALAKUMARI, W/O. P.K. MUKUNDAN,
64 YEARS, 17/B, MODEL HOUSE ROAD, C.I.T NAGAR,
CHENNAI-35.

39. MANOJNA, D/O. MUKUNDAN, 39 YEARS,
RESIDING AT 17/B, MODEL HOUSE ROAD,
C.I.T. NAGAR, CHENNAI-35.

40. POORNIMA,D/O. MUKUNDAN, 36 YEARS,
RESIDING AT 17/B, MODEL HOUSE ROAD,
C.I.T. NAGAR, CHENNAI-35.

41. SEETHA LAKSHMI, W/O,. K.K.SREENIVASAN,
59 YEARS, NO OCCUPATION, SREEKRISHNA NILAYAM,
P.O. IRINGATH, VIA, PAYYOLI, KOZHIKODE DIST.

42. SANKESH, S/O. SEETHA LAKSHMI,
SREEKRISHNA NILAYAM,
P.O.IRINGATH, VIA, PAYYOLI, KOZHIKODE DIST.

43. MAHESH, S/O. SEETHA LAKSHMI,
SREEKRISHNA NILAYAM,
P.O. IRINGATH, VIA, PAYOOLI, KOZHIKODE DIST.

44. M.V.RAMACHANDRAN, S/O.K.BAPPOOTTY,
3/349, VATTOTH HOUSE, EAST NADAKKAVU.

45. JASWANTH RAJ.A.K., S/O.GANGADHARAN,
42 YEARS, ANASWARA, P.O. AMBALA VAYAL,
SULTHAN BATHEIR, TALUK VYNAD DIST.

46. JALADHRAJ.A.K,S/O. GANGADHARAN, 39 YEARS
RESIDING AT ANASWARA, P.O. AMBALA VAYAL,
SULTHAN BATHERI, TALUK, VYNAD DIST.

47. JASIN RAJ, S/O. GANGADHARAN, 34 YEARS,
RESIDING AT ANSWARA, P.O.AMBALA VAYAL,
SULTHAN BATHERI, TALUK, VYNAD DIST.

48. JOHNA.A.V.S/O.GANGADHARAN, 31 YEARS,
RESIDING AT ANASWARA, P.O. AMBALA VAYAL,
SULTHAN BATHERI, TALUK, VYNAD DIST.

49. BEENA, W/O. LATE RADHAKRISHNAN,
AGE NOT KNOWN NO JOB, THALLANGANDY HOUSE,
P.O. PULLOOKKARA, VIA, CHOKLI, PULLOOKKARA,
DESOM, PERINGATHUR VILLAGE.

50. SON ABHILASH, THALLANGANDY HOUSE,
P.O. PULLOOKKARA VIA, CHOKLI,PULLOOKKARA
DESOM,PERINGATHUR VILLAGE.

51. BROTHER PRATHYUSH,THALLANGANDY HOUSE,
P.O. PULLOOKKARA VIA, CHOKLI, PULLOOKKARA DESOM,
PERINGATHUR VILLAGE.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.23174 OF 2007

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Dated this the 30th day of July,2007

JUDGMENT

This writ petition is filed to challenge the order of the Munsiff's Court, Thalassery in I.A.No.1129 2007 in O.S.No.297 of 2000. By the said application, plaintiffs wanted to amend the plaint by incorporating a prayer for consequential injunction and the relief sought is with reference to any immovable property, the court fee has to be paid under section 25(b) of the Court Fees act. As per the original plaint, the court fee is paid under section 25(d)(i) of the Court Fees Act.

2. I had perused the plaint as well as the amendment application. The prayer in the plaint is to declare the decree of a civil court which was confirmed up to the Supreme Court as not binding on the plaintiffs and to declare that they are the owners in possession of the property. Nowhere in the plaint nor in the amendment application is there any pleading with respect to the alleged threat or attempted act of trespass by the defendants. When there is no such pleading, I am afraid that the court cannot grant or entertain an application to amend the plaint under Section 25(b) of the Court

Fees Act.

Therefore this writ petition lacks merit and the same is dismissed. But it is made clear that if the plaintiffs still apprehends the act of trespass and there is a proper application, then it will not debar them from filing a fresh application for amendment. The dismissal of this writ petition shall not be treated as a ground to refuse the prayer, if it is otherwise allowable.

M.N.KRISHNAN, JUDGE

Cdp/-